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Refer to File Number: 3968-20080220-PLC
5 Attorneys for Defendant
FIRST FEDERAL BANK OF CALIFORNIA
6

RICHARD W. SPERBER,
LLP
U.S. DISTRICT COURT
NO. DIST. OF CALIFORNIA

E-FILING

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

11 DEBORAH E. JOHNSON and GERALD)
12 D. JOHNSON,)
13 Plaintiffs,)
14)
15 vs.)
16 FIRST FEDERAL BANK OF)
17 CALIFORNIA,)
18 Defendant.)
19

CASE NO: C08 01796 RS
NOTICE OF REMOVAL

20 TO THE CLERK OF THE ABOVE-ENTITLED COURT AND ALL
21 INTERESTED PARTIES HEREIN:

22 PLEASE TAKE NOTICE that FIRST FEDERAL BANK OF CALIFORNIA
23 (hereinafter "First Federal Bank"), Defendant in the above-referenced proceeding, hereby
24 removes to this Court the state court action described below.

25 1. On March 19, 2008, an action was commenced in the Superior Court of the State
26 of California, in the County of Monterey, Monterey Division, entitled DEBORAH E.
27 JOHNSON and GERALD D. JOHNSON, Plaintiffs, vs. FIRST FEDERAL BANK OF
28

NOTICE OF REMOVAL

1 CALIFORNIA, Defendant, as Case Number M89900 (the "State Court Action").
2 Attached hereto as Exhibit "1" and incorporated herein by reference is a true and correct
3 copy of all pleadings filed in the State Court Action.
4 2. First Federal Bank was served with a copy of the complaint on March 27, 2008 by
5 personal service. A true and correct copy of the Summons with the service date is
6 included in Exhibit "1" attached hereto and incorporated herein by reference. Thirty days
7 have not yet expired since service of the Complaint upon First Federal Bank.
8 3. Plaintiffs DEBORAH E. JOHNSON and GERALD D. JOHNSON are Plaintiffs in
9 another case against First Federal Bank, pending as Case Number C08 00264 PVT with
10 the United States District Court, Northern District of California (the "Pending Federal
11 Action"), in which the amended complaint is virtually identical, and contains the same
12 allegations as those set forth in the State Court Action. (A Notice of Related Case will be
13 filed with the United States District Court).
14 4. The State Court Action is a civil action over which the United States District
15 Court, Northern District, San Jose Division has original jurisdiction under 28 U.S.C.
16 §1331 pursuant to the provisions of 28 U.S.C. §1441(b) in that it arises under the Truth in
17 Lending Act ("TILA") and Home Ownership and Equity Protection Act ("HOEPA")
18 found at 15 U.S.C. 1602, *et seq.* Accordingly, First Federal Bank may remove the State
19 Court Action to this Court pursuant to 28 U.S.C. §1452.
20 5. In the State Court Action, as well as in the Pending Federal Action, Plaintiffs
21 allege that First Federal Bank engaged in predatory lending practices under the TILA and
22 HOEPA by failing to provide the requisite disclosures, failing to provide Plaintiff Gerald
23 Johnson with the right to rescind the loan at issue, and foreclosing upon a security
24 instrument that was obtained by fraud. (First Federal Bank asserts that these contentions
25 are without merit). Plaintiffs initially brought their claim against First Federal Bank in the
26 United States District Court, and on April 1, 2008, amended their complaint in the
27 Pending Federal Action. This amended complaint word for word contains essentially the
28

1 same allegations as those contained in the State Court Action. Thus, as there is already an
2 action pending between the same parties, with the same claims and same transaction at
3 issue, the State Court Action belongs in federal court.

4 6. Plaintiffs have not named any other Defendants, so Joinder in this Notice of
5 Removal is not applicable in this matter.

6

7 DATED: April 2, 2008

HEMAR, ROUSSO & HEALD, LLP

8 By: _____
9

PAMELA L. COX
Attorneys for Defendant
FIRST FEDERAL BANK OF
CALIFORNIA

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EXHIBIT 1

APR-01-2008 TUE 08:09 AM

P. 001

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

FIRST FEDERAL BANK OF CALIFORNIA

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

**GERALD D. JOHNSON AND
DEBORAH E. JOHNSON**

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le queda más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is: **SUPERIOR COURT OF
CALIFORNIA / MONTEREY COUNTY
1200 AGUAJITO RD.** CASE NUMBER:
(El nombre y dirección de la corte es): **M 89900**

MONTEREY, CA. 93940, MONTEREY DIVISION

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

**GERALD D. JOHNSON, P.O. BOX 4448 CARMEL, CA. 93921
831-622-0132 DEBORAH E. JOHNSON**

DATE: **3-19-2008** CONNIE MAZZEI Clerk, by **LISA DALIA**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.
2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

under: CCP 416.10 (corporation) CCP 416.60 (minor)
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 other (specify):

4. by personal delivery on (date): **3/21/08**

APR-01-2008 TUE 08:10 AM

P. 002

SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY		<i>Reserved for Clerk's File Stamp</i>
Johnson, Deborah E. et al, Plaintiff/Petitioner vs. First Federal Bank et al, Defendant/Respondent		FILED MAR 19 2008 CONNIE MAZZEI CLERK OF THE SUPERIOR COURT LISA DALIA DEPUTY
CASE MANAGEMENT NOTICE		Case No. M89900

Case Management Conference Date: September 11, 2008 at 9:00 a.m.

1. NOTICE is hereby given that a CASE MANAGEMENT STATEMENT shall be filed with the Court and served on all parties NO LATER than: 30 days before the above date of the initial CASE MANAGEMENT CONFERENCE.
2. No party may stipulate to extend any of the dates set above.
3. At the CASE MANAGEMENT CONFERENCE, it is expected that trial counsel for each party and each self-represented party shall attend and be fully prepared to participate effectively in the conference.
4. On receipt of the CASE MANAGEMENT STATEMENT and at or before the CASE MANAGEMENT CONFERENCE the Court may make the following orders:
 - a. refer the matter to arbitration, the court-directed mediation program, or other alternative dispute resolution procedures;
 - b. identify the case as one which may be protracted and in need of special attention;
 - c. assign the case to a particular judge for all purposes;
 - d. assign a mandatory settlement conference and trial date;
 - e. make orders establishing discovery schedules and cut-offs, including expert witness disclosure and discovery;
 - f. make appropriate Trial Management Orders; and/or
 - g. make any other orders to achieve the interests of justice and the timely disposition of the case, including the setting of additional Status Conferences.
5. It is the policy of this Court that all complaints and cross-complaints be filed and served, all challenges to the pleadings be heard, and the matter be at-issue no later than 180 days from the filing of the complaint. It is the policy of this Court that all civil matters be resolved in no more than 12 to 24 months of the filing of the complaint.
6. Failure to file the CASE MANAGEMENT STATEMENT, attend the CASE MANAGEMENT CONFERENCE and participate effectively, or comply with any CASE AND TRIAL MANAGEMENT RULES may result in sanction.
7. It is the responsibility of the parties and/or their attorneys to be familiar with the Monterey County Case and Trial Management Policies and Rules and to comply therewith.

BY ORDER OF THE PRESIDING JUDGE

Date: March 19, 2008

By: _____ **LISA DALIA**
 Deputy Clerk

Alternative Dispute Resolution

OPTIONS FOR RESOLVING YOUR DISPUTE

There Are Alternatives to Going to Trial

Did you know that 95 percent of all civil cases filed in court are resolved without going to trial? Many people use processes other than trial to resolve their disputes. These alternative processes, known as Alternative Dispute Resolution or ADR, are typically less formal and adversarial than trial, and many use a problem-solving approach to help the parties reach agreement.

Advantages of ADR

Here are some potential advantages of using ADR:

- **Save Time:** A dispute often can be settled or decided much sooner with ADR; often in a matter of months, even weeks, while bringing a lawsuit to trial can take a year or more.
- **Save Money:** When cases are resolved earlier through ADR, the parties may save some of the money they would have spent on attorney fees, court costs, and expert's fees.
- **Increase Control over the Process and the Outcome:** In ADR, parties typically play a greater role in shaping both the process and its outcome. In most ADR processes, parties have more opportunity to tell their side of the story than they do at trial. Some ADR processes, such as mediation, allow the parties to fashion creative resolutions that are not available in a trial. Other ADR processes, such as arbitration, allow the parties to choose an expert in a particular field to decide the dispute.
- **Preserve Relationships:** ADR can be a less adversarial and hostile way to resolve a dispute. For example, an experienced mediator can help the parties effectively communicate their needs and point of view to the other side. This can be an important advantage where the parties have a relationship to preserve.
- **Increase Satisfaction:** In a trial, there is typically a winner and a loser. The loser is not likely to be happy, and even the winner may not be completely satisfied with the outcome. ADR can help the parties find win-win solutions and achieve their real goals. This, along with all of ADR's other potential advantages, may increase the parties' overall satisfaction with both the dispute resolution process and the outcome.
- **Improve Attorney-Client Relationships:** Attorneys may also benefit from ADR by being seen as problem-solvers rather than combatants. Quick, cost-effective, and satisfying resolutions are likely to produce happier clients and thus generate repeat business from clients and referrals of their friends and associates.

Because of these potential advantages, it is worth considering using ADR early in a lawsuit or even before you file a lawsuit.

What Are the ADR Options?

The most commonly used ADR processes are mediation, arbitration, neutral evaluation, and settlement conferences.

Mediation

In mediation, an impartial person called a "mediator" helps the parties try to reach a mutually acceptable resolution of the dispute. The mediator does not decide the dispute but helps the parties communicate so they can try to settle the dispute themselves. Mediation leaves control of the outcome with the parties. The Monterey County Superior Court offers a Court-Directed Mediation Program.

Cases for Which Mediation May Be Appropriate: Mediation may be particularly useful when parties have a relationship they want to preserve. So when family members, neighbors, or business partners have a dispute, mediation may be the ADR process to use.

Mediation is also effective when emotions are getting in the way of resolution. An effective mediator can hear the parties out and help them communicate with each other in an effective and nondestructive manner.

Cases for Which Mediation May Not Be Appropriate: Mediation may not be effective if one of the parties is unwilling to cooperate or compromise. Mediation also may not be effective if one of the parties has a significant advantage in power over the other. Therefore, it may not be a good choice if the parties have a history of abuse or victimization.

Arbitration

In arbitration, a neutral person called an "arbitrator" hears arguments and evidence from each side and then decides the outcome of the dispute. Arbitration is less formal than a trial, and the rules of evidence are often relaxed.

Arbitration may be either "binding" or "nonbinding." *Binding arbitration* means that the parties waive their right to a trial and agree to accept the arbitrator's decision as final. Generally, there is no right to appeal an arbitrator's decision in binding arbitration. *Nonbinding arbitration* means that the parties are free to request a trial if they do not accept the arbitrator's decision. The Monterey County Superior Court offers a nonbinding judicial arbitration program.

Cases for Which Arbitration May Be Appropriate: Arbitration is best for cases where the parties want another person to decide the outcome of their dispute for them but would like to avoid the formality, time, and expense of a trial. It may also be appropriate for complex matters where the parties want a decision-maker who has training or experience in the subject matter of the dispute.

Cases for Which Arbitration May Not Be Appropriate: If parties want to retain control over how their dispute is resolved, arbitration, particularly binding arbitration, is not appropriate. In binding arbitration, the parties generally cannot appeal the arbitrator's award, even if it is not supported by the evidence or the law. Even in nonbinding arbitration, if a party requests a trial and does not receive a more favorable result at trial than in arbitration, there may be penalties.

Neutral Evaluation

In neutral evaluation, each party gets a chance to present the case to a neutral person called an "evaluator." The evaluator then gives an opinion on the strengths and weaknesses of each party's evidence and arguments and about how the dispute could be resolved. The evaluator is often an expert in the subject matter of the dispute. Although the evaluator's opinion is nonbinding, the parties typically use it as a basis for trying to negotiate a resolution of the dispute.

Cases for Which Neutral Evaluation May Be Appropriate: Neutral evaluation may be most appropriate in cases in which there are technical issues that require expertise to resolve or the only significant issue in the case is the amount of damages.

Cases for Which Neutral Evaluation May Not Be Appropriate: Neutral evaluation may not be appropriate when there are significant personal or emotional barriers to resolving the dispute.

Settlement Conference

Settlement conferences may be either mandatory or voluntary. In both types of settlement conferences, the parties and their attorneys meet with a judge or neutral person called a "settlement officer" to discuss possible settlement of their dispute. The judge or settlement officer does not make a decision in the case but assists the parties in evaluating the strengths and weaknesses of the case and in negotiating a settlement. Settlement conferences are appropriate in any case where settlement is an option. Mandatory settlement conferences are often held close to the date a case is set for trial.

APR-01-2008 TUE 08:10 AM

P. 005

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address):				
TELEPHONE NO.:	FAX NO. (Optional)			
EMAIL ADDRESS (Optional):				
ATTORNEY FOR (Name):				
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY MAILING ADDRESS: 1200 Agua Caliente Road CITY AND ZIP CODE: Monterey, CA 93940				
PLAINTIFF/PETITIONER:				
DEFENDANT/RESPONDENT:				
Request to Vacate or Continue Initial Case Management Conference and Order		Case Number:		
A CASE MANAGEMENT CONFERENCE is scheduled as follows:				
Date:	Time:	Dept.:	Div.:	Room:

- ▶ IF APPLICABLE, THIS REQUEST AND ORDER MUST BE FILED CONCURRENTLY WITH THE CASE MANAGEMENT STATEMENTS, WHICH ARE DUE NO LATER THAN 30 DAYS BEFORE THE INITIAL CASE MANAGEMENT CONFERENCE.
- ▶ PER LOCAL RULE 6.08(g), IF THE PARTIES DO NOT RECEIVE A SIGNED COPY OF THE ORDER GRANTING THE REQUEST, THEY MUST ATTEND THE CASE MANAGEMENT CONFERENCE.

Counsel and the parties certify that the initial Case Management Conference should be vacated or continued for the following reasons [circle one]:

1. All parties have appeared and agree to engage in the below ADR program [check one]:

- | | | |
|--|--|-----|
| <input type="checkbox"/> Court-Directed mediation | <input type="checkbox"/> Private mediation | THE |
| <input type="checkbox"/> Nonbinding judicial arbitration | <input type="checkbox"/> Private arbitration | |
| <input type="checkbox"/> Other: | | |

PARTIES AGREE TO COMPLETE THE ALTERNATIVE DISPUTE RESOLUTION PROGRAM WITHIN 90 DAYS OF THE FILING OF THIS FORM. Further Case Management Conference is requested

2. Case is concluded and judgment or dismissal has been entered as to all parties.
3. Case has settled; dismissal shall be filed on or before _____.
4. Case is at-issue and all parties agree that matter may be set for trial without the necessity of a Case Management Conference.
5. All defendants have not been served and the plaintiff has been granted an extension by the court until _____ to complete service on all defendants. Further Case Management Conference is requested.
6. A defendant has filed bankruptcy; case should be stayed pending the completion of bankruptcy. Plaintiff shall file a Supplemental Case Management Statement within ten (10) days of any action by the debtor or the Bankruptcy Court that would act as a lifting of said stay.
7. Case has been removed to Federal Court. Plaintiff shall file a Supplemental Case Management Statement within ten (10) days of any remand back to Superior Court or of any judgment or dismissal filed in the Federal Court.

Request to Vacate or Continue Initial Case Management Conference and Order	Case Number:
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8. Plaintiff has obtained a default as to all defendants and will perfect the default by entry of court or clerk judgment in timely manner. Further Case Management Conference is requested.
9. All defendants have appeared and discovery is proceeding in a timely manner. For reasons set forth in the parties' Case Management Statements, the case should be designated (circle one) Category I, Category II or Category III. Parties anticipate case will be ready to set for trial as of _____ . Further Case Management Conference is requested.
10. Other:

_____. Further Case Management Conference is requested.

Counsel for Plaintiff (print name) _____

Counsel for Defendant (print name) _____

Signature _____

Signature _____

Counsel for Plaintiff (print name) _____

Counsel for Defendant (print name) _____

Signature _____

Signature _____

For additional parties, attach additional signature pages as needed.

Good Cause appearing, IT IS SO ORDERED that the Case Management Conference set for _____ is vacated.

Supplemental Case Management Statements shall be filed as set forth in 6 or 7 above.

Receipt of Dismissal is set for _____.

Further Case Management Conference is set for _____.
Parties shall file Case Management Statements prior to said hearing per Local Rule 6.08(e).

PLAINTIFF MUST SERVE A COPY OF THIS ORDER ON ALL PARTIES.

Dated: _____

Judge of the Superior Court

1 Deborah E. Johnson
2 P.O.Box 4448
Carmel, California 93921-4448
Telephone: 831-622-0132

3
4 Gerald D. Johnson (Pro Se, filing party)
P.O.Box 4448
Carmel, California 93921-4448
Telephone: 831-622-0132
E-mail: aprgdj@cs.com

5 Plaintiffs

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FILED

MAR 19 2008

CONNIE MAZZEI
CLERK OF THE SUPERIOR COURT
LISA DALIA DEPUTY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF MONTEREY, MONTEREY DIVISION

DEBORAH E. JOHNSON & GERALD D.
JOHNSON

Case No. M 8 9 9 0 0

Plaintiffs,

**COMPLAINT FOR FRAUD
AND TO SET ASIDE FRAUDULENT
TRANSFER FOR RELIEF & DAMAGES**

vs.

FIRST FEDERAL BANK OF CALIFORNIA

Defendant

1. Jurisdiction. This Court has jurisdiction because the subject property, 2nd Avenue 2NE
of Dolores Street, in the City of Carmel, which is located in the County of Monterey.

2. Venue. This Court is appropriate because the Unlawful Detainer Action is currently in
Civil Court of Monterey County.

3. This is a counter suit, to the Unlawful Detainer Action, is based on facts contained in
this Complaint that the security instrument used to transfer this property was obtained by mortgage
and bank fraud.

4. Plaintiffs, Deborah E. Johnson and Gerald D. Johnson, will prove with documents
produced by Defendant, First Federal Bank of California, and other entities working for or under

1 the direct supervision of the Defendant, wilfully and with intent to deceive, omitted, misrepresented
2 and made material misstatements to commit mortgage and bank fraud. There are violations of the
3 Truth In Lending Act in regards to material disclosures and right to rescind for Plaintiff, Gerald D.
4 Johnson. Defendant in directing other entities to create an enterprise, while committing 3 related
5 acts of fraud and using the mail and wire networks in committing those acts, Defendant actions
6 come under the RICO Act for organized fraud. Defendant has violated Federal and State
7 "Rescission Laws", Common Law as it relates to contracts.

8

9 **STATEMENT OF FACTS**

- 10 1. Defendant qualified Plaintiffs for the loan on their primary residence located at 2nd
11 Avenue 2NE of Dolores Street in Carmel, California, based on the income of Plaintiff, Gerald D.
12 Johnson, which was \$155,000.00 for year 2005. Exhibit "A" is the escrow documents from Old
13 Republic Title addressed to Plaintiff, Gerald D. Johnson, prepared on May 5, 2005 with
14 instructions to remove Gerald D. Johnson from title of their primary residence. Exhibit "B" is the
15 "Borrower/Escrow Instructions" from Old Republic Title of which page 4 of 5 list the conditions
16 to be met prior to funding, one item notes "the level of debt too high (cards are maxed out)" and
17 the other item, "Certified Copy of Quit Claim Deed", as noted at the top of page 4 of 5, these
18 are conditions from Defendant to Plaintiffs and must be met prior to funding. These conditions
19 and the removal of Plaintiff, Gerald D. Johnson, from title were first presented to Plaintiffs at
20 signing on May 5, 2005. Exhibit "C" is the list of credit accounts under Plaintiff, Gerald D.
21 Johnson, 9 months prior to the May 5, 2005 closing date with Defendant. Plaintiff, Gerald D.
22 Johnson's, unsecured debts listed in Exhibit "C" were removed from the loan application, while
23 his income was included on the application.
24 2. Exhibit "D" is the Old Republic Title Company's preliminary title report for the Plaintiffs

1 primary residence, which clearly shows Plaintiff, Gerald D. Johnson, on title as joint tenant, this
2 document was used as part of the closing documents on May 5, 2005. Exhibit "E" is the loan
3 application used as part of the closing documents, this was produced by the agent working on
4 behalf of the Defendant. On page 1 of 5, Plaintiff, Gerald D. Johnson, is named in the section
5 titled "Title Will Be Held In What Names". Exhibit "F" is the previous mortgage note and
6 statement from Novastar Home Mortgage that was faxed to the agent working on behalf of the
7 Defendant at the request of the Defendant. The Plaintiff, Gerald D. Johnson, is clearly indicated
8 on both documents. These documents, all produced by others, provides clear evidence of
9 Plaintiff, Gerald D. Johnson's ownership interest and his right to all material disclosures and right
10 to rescind any security instrument placed on the property.

11 3. Exhibit "G" is the fax communications between Plaintiff and Defendant in regards to the
12 rescission of the loan on May 5, 2005 after Plaintiff, Gerald D. Johnson, was removed from the
13 loan documents at signing. Plaintiffs were called by Defendant and convinced that the removal of
14 Plaintiff, Gerald D. Johnson, was necessary to receive a favorable loan with his credit score and
15 is a common business practice. The rescission, as noted in the fax communication cover sheet
16 from Plaintiff to an employee working for Defendant, was not signed in error and represented
17 only one party to the transaction, Plaintiff, Deborah E. Johnson. Plaintiff, Gerald D. Johnson,
18 was never provided with or signed material disclosures and was not presented with 2 forms for
19 his right to rescind the loan.

20 4. Plaintiffs were made aware of the transfer on March 4, 2008 at the federal hearing in
21 San Jose U.S. Federal Court in regards to a civil suit related to this action.

22 5. Proper notice of the foreclosure sale was not given to all parties with an ownership interest
23 and no notice was given prior to the February 2008 transfer.

24 6. Plaintiffs were served with the "Notice To Quit" on March 14, 2008.

7. Exhibit "H" & "I" are full appraisals on Plaintiff's property completed in May 2007, with appraised values of \$1,350,000 and \$1,400,000.

LEGAL ARGUMENT

A. California contract law states:

Fraud is the intentional misrepresentation of an important issue of the contract. The presence of fraud in a contractual proceeding makes the contract voidable by the party upon whom the fraud was perpetrated.

The Mortgage Bankers Association's definitions of mortgage fraud are:

(I) "Material misstatement, misrepresentation or omission relating to the property or potential mortgage relied on by an underwriter or lender to fund."

(2) The intentional enticement of a financial entity to make, buy or insure a

mortgage loan when it would not otherwise have done so, had it possessed correct

information: *any fact or piece of knowledge; information is communicated by words, writing, or some other medium.*

The Defendant has willfully and knowingly given false and fraudulent information, while working

with and directing others. Defendant's actions resulted in many violations which fall under the

above definitions for mortgage fraud. The Defendant commenced the second and most serious

offense or violation with the fraudulent transfer that occurred in February 2008. The Plaintiffs

discovered the fraud in January 2008 after filing the complaint that is currently pending in Federal

Court, case number C08-00264 PVT, which was filed on January 14, 2008 prior to the fraudulent

transfer. The additional violations fall under 18 USC 1962, 18 USC 1344, 18 USC 1341,

18 USC 1343, 18 USC 1957, Ca Civ Code 1596, 1598 and others

B. "Consumer's right to rescind...In a credit transaction in which a security is or will be retained or acquired in a consumer's principal dwelling, each consumer whose

1 ownership interest is or will be subject to the security interest shall have the right to
2 rescind the transaction."(12 CFR 226.23)

3 Plaintiff, Gerald D. Johnson, was on title at the time of signing on May 5, 2005. Exhibit "A"
4 clearly notes the time of signing and recording which was May 16, 2005. These violations are
5 covered under 12 CFR 226.23 and section 125 of TILA. The preliminary title report in Exhibit
6 "D" and the loan application in Exhibit "E" both are clear that Plaintiff, Gerald D. Johnson, should
7 have been provided all material disclosures and the right to rescind the loan. The foreclosure
8 process stopped the tolling of the 3 year right to rescind. Defendant has attempted to extinguish
9 Plaintiff, Gerald D. Johnson's rescission rights with this fraudulent transfer, which was excuted
10 with a security instrument created by fraud.

11 **C. California Civil Code Section 1688. A contract is extinguished by its rescission.**

12 On May 5, 2005, Plaintiff, Gerald D. Johnson, signed the "Right to Cancel" as Plaintiff, Deborah E.
13 Johnson's, "attorney in fact", Exhibit "G" is the entire written communications as it pertains to the
14 rescission between Defendant and Plaintiff. Defendant wanted Plaintiff, Gerald D. Johnson, to state
15 that the rescission was signed in error, Plaintiff's final note faxed to Defendant, states "Right to Cancel
16 was not signed in error, it was rescinded."

17 **California Civil Code Section 1689(b)(5). A party to a contract may rescind the contract**

18 **....If the contract is unlawful for causes which do not appear in its terms or conditions,
19 and the parties are not equally at fault.**

20 D. The foreclosure notice and sale did not include all consumers with an ownership interest
21 in the property.

22 **CONCLUSION**

23 Based on the foregoing Statement Of Facts and Legal Argument, Plaintiff's plea to this
24 Court is that you set aside the fraudulent transfer that is based on mortgage and bank fraud.

APR-01-2008 TUE 08:12 AM

P.012

1 Plaintiffs ask this Court to restore the right to rescission based on the fraud that was uncovered
2 and the TILA disclosure rights denied Plaintiff Gerald D. Johnson.

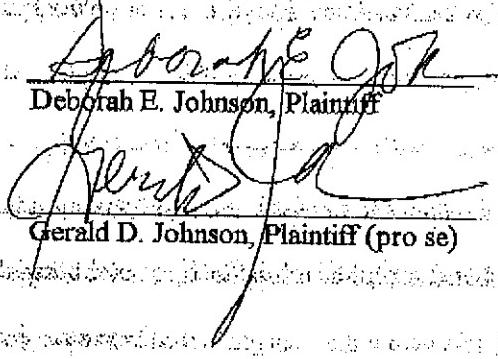
3 Plaintiffs are proceeding "pro se" in this matter and in the current federal case and in the
4 bankruptcy court filing that proceeded each, due to the financial damage caused by these actions.

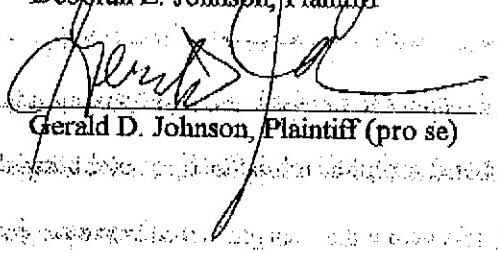
5 Plaintiffs seek relief in the form of punitive damages, returned to the status quo in regards
6 to Plaintiffs' primary residence and any further relief which this Court deems appropriate for the
7 damages suffered by the actions of Defendant.

8 We declare under penalty of perjury that the foregoing statement of facts and documents are
9 true and correct.

10 Dated: March 18, 2008

11 Deborah E. Johnson, Plaintiff

12 
Deborah E. Johnson, Plaintiff

13 
Gerald D. Johnson, Plaintiff (pro se)

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1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA }

3 COUNTY OF LOS ANGELES }

4 I am employed in the County of Los Angeles, State of California. I am over the
 5 age of eighteen and not a party to the within action. My business address is Hemar,
 6 Rousso & Heald, LLP. ("the business") 15910 Ventura Boulevard, 12th Floor, Encino, CA
 91436.

7 I am readily familiar with the business's practice for collection and processing of
 8 correspondence for mailing with the United States Postal Service; such correspondence
 9 would be deposited with the United States Postal Service the same day of deposit in the
 10 ordinary course of business.

11 On April 2, 2008, I served the foregoing document described as **NOTICE OF**
 12 **REMOVAL** on the interested parties in this action by placing a true and correct copy
 13 thereof in a sealed envelope addressed as follows:

14 DEBORAH E. JOHNSON
 15 PO Box 4448
 16 Carmel, CA 93921-4448

17 GERALD D. JOHNSON (Pro Se, Filing Party)
 18 PO Box 4448
 19 Carmel, CA 93921-4448

20 XX At my business address, I placed such envelope for deposit with the Federal
 21 Express or XX U.S. Postal Office by placing them for collection and mailing on that
 22 date following ordinary business practices.

23 I delivered such envelope(s) by hand to the offices of the addressees.

24 I caused such copies to be facsimiled to the persons set forth.

25 (State) I declare under penalty of perjury under the laws of the State of California
 26 that the foregoing is true and correct.

27 XX (Federal) I declare under penalty of perjury under the laws of the United States of
 28 America that I am employed in the office of a member of the bar of this court at
 whose direction the service was made.

29 Executed on April 2, 2008 at Encino, California.

30 
 31 LISA FIELDS

JS 44 (Rev. 12/07) (cont'd rev 1-16-08)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

ORIGINAL

L. (a) PLAINTIFFS

DEBORAH E. JOHNSON; GERALD D. JOHNSON

DEFENDANTS

FIRST FEDERAL BANK OF CALIFORNIA

(b) County of Residence of First Listed Plaintiff MONTEREY
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant N/A
(IN U.S. PLAINTIFF CASES ONLY)
COURT-IMPLIMENTED CASES, USE THE LOCATION OF THE
LAND INVOLVED

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

PRO SE

PAMELA L. COX
HEMAR, ROUSSO & HEALD, LLP
15910 VENTURA BLVD., 12TH FLOOR
ENCINO, CA 91436 (818) 501-3800 (818) 501-2985 (fax)

RS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | Citizen of This State | PTF | DEF | Citizen of Another State | PTF | DEF |
|---------------------------------------|----------------------------|---|----------------------------|----------------------------|---|
| <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State |
| | | | | | |
| | | | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation |
| | | | | | <input type="checkbox"/> 6 |
| | | | | | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 630 Liquor Laws		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 640 R.R. & Truck		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 650 Airline Regs.		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 690 Other		<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 510 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 520 Habeas Corpus:	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/ Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/ Disabilities - Other	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		
IMMIGRATION				
				<input type="checkbox"/> 462 Naturalization Application
				<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee
				<input type="checkbox"/> 465 Other Immigration Actions
FEDERAL TAX SUITS				
				<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
				<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- | | | |
|--|---|--|
| <input type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court |
|--|---|--|

Transferred from
4 Reinstated or Reopened
5 another district (specify)

6 Multidistrict Litigation

Appeal to District
7 Judge from Magistrate Judgment**VI. CAUSE OF ACTION**Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
TILA, HOEPA, RICO

Brief description of cause:

DAMAGES FOR PREDATORY LENDING VIOLATIONS

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ not specifiedCHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE
"NOTICE OF RELATED CASE". C08 00264 PVT**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)**
(PLACE AND "X" IN ONE BOX ONLY) SAN FRANCISCO/OAKLAND SAN JOSE

SIGNATURE OF ATTORNEY OF RECORD

Janet Llop

DATE
APRIL 2, 2008

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. **(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.**

Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

PROOF OF SERVICE

1 STATE OF CALIFORNIA }

2 }

3 COUNTY OF LOS ANGELES }

4 I am employed in the County of Los Angeles, State of California. I am over the age of
 5 eighteen and not a party to the within action. My business address is Hemar, Rousso & Heald,
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7 I am readily familiar with the business's practice for collection and processing of
 8 correspondence for mailing with the United States Postal Service; such correspondence would be
 9 deposited with the United States Postal Service the same day of deposit in the ordinary course of
 10 business.

11 On April 2, 2008, I served the foregoing document described as **CIVIL COVER**
 12 **SHEET** on the interested parties in this action by placing a true and correct copy thereof in a
 13 sealed envelope addressed as follows:

14 DEBORAH E. JOHNSON
 15 PO Box 4448
 16 Carmel, CA 93921-4448

17 GERALD D. JOHNSON (Pro Se, Filing Party)
 18 PO Box 4448
 19 Carmel, CA 93921-4448

20 XX At my business address, I placed such envelope for deposit with the Federal Express or
 21 XX U.S. Postal Office by placing them for collection and mailing on that date following
 22 ordinary business practices.

- 23 — I delivered such envelope(s) by hand to the offices of the addressees.
 24 — I caused such copies to be facsimiled to the persons set forth.
 25 — (State) I declare under penalty of perjury under the laws of the State of California that the
 26 foregoing is true and correct.

27 XX (Federal) I declare under penalty of perjury under the laws of the United States of
 28 America that I am employed in the office of a member of the bar of this court at whose
 direction the service was made.

29 Executed on April 2, 2008 at Encino, California.

30 
 31 LISA FIELDS